

1 Kevin J. Curtis, WSBA No. 12085
2 WINSTON & CASHATT, LAWYERS, a
3 Professional Service Corporation
4 601 W. Riverside, Ste. 1900
Spokane, WA 99201
Telephone: (509) 838-6131

5 Charles L. Babcock IV (*admitted pro hac vice*)

6 cbabcock@jw.com

7 Texas Bar No. 01479500

8 William J. Stowe (*admitted pro hac vice*)

wstowe@jw.com

9 Texas Bar No. 24075124

10 JACKSON WALKER L.L.P.

11 1401 McKinney Street

Suite 1900

12 Houston, Texas 77010

(713) 752-4360 (telephone)

(713) 308-4116 (facsimile)

13 Attorneys for Defendants CXO Media, Inc. and Steve Ragan

14

15 UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF WASHINGTON

17 RIVER CITY MEDIA, LLC, a Wyoming
18 limited liability company, MARK
19 FERRIS, an individual, MATT FERRIS,
an individual, and AMBER PAUL, an
individual,

20 Plaintiffs, No. 2:17-cv-105-SAB

21 DEFENDANT STEVE RAGAN'S
ANSWER TO FIRST AMENDED
COMPLAINT

22 vs.
23

24 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT

PAGE 1

1 KROMTECH ALLIANCE
2 CORPORATION, a German corporation,
3 CHRIS VICKERY, an individual, CXO
4 MEDIA, INC., a Massachusetts
corporation, INTERNATIONAL DATA
5 GROUP, INC., a Massachusetts
corporation, and STEVE RAGAN, an
individual, and DOES 1-50,

6 Defendants.
7

8 Defendant Steve Ragan (“Ragan”) respectfully submits this Answer to Plaintiffs’
9 First Amended Complaint (“Complaint”) (ECF No. 110) as follows:
10

11 I.

12 **RESPONSES TO PLAINTIFFS’ ALLEGATIONS**

13 1-2. Ragan is without sufficient information at this time to admit or deny the
14 allegations in paragraphs 1-2 of the Complaint and therefore denies the allegations
15 pursuant to Fed. R. Civ. P. 8(b)(5).
16

17 3. Denied.

18 4-5. Ragan is without sufficient information at this time to admit or deny the
19 allegations in paragraphs 4-5 of the Complaint and therefore denies the allegations
20 pursuant to Fed. R. Civ. P. 8(b)(5).
21

22 6. Denied.
23

24 DEFENDANT STEVE RAGAN’S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 2

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1 7. Ragan denies that he engaged in any illegal actions causing any damage to
2 Plaintiffs' businesses, reputations, livelihoods, and physical or mental health. Ragan is
3 without sufficient information at this time to admit or deny the remaining allegations in
4 paragraphs 7 of the Complaint and therefore denies the allegations pursuant to Fed. R.
5 Civ. P. 8(b)(5).

6 8. Ragan is without sufficient information at this time to admit or deny the
7 allegations in paragraphs 8 of the Complaint and therefore denies the allegations pursuant
8 to Fed. R. Civ. P. 8(b)(5). Ragan, however, denies any wrongdoing or that Plaintiffs are
9 entitled to any relief.

10 9. Ragan admits that this Court has subject matter jurisdiction under 28 U.S.C.
11 § 1332.

12 10. Ragan admits that this Court has subject matter jurisdiction under 28 U.S.C.
13 § 1331.

14 11. Ragan admits that this Court has subject matter jurisdiction under 28 U.S.C.
15 § 1331.

16 12. Ragan admits that this Court has subject matter jurisdiction under 28 U.S.C.
17 § 1331.

18 13. Ragan admits that this Court has subject matter jurisdiction under 28 U.S.C.
19 § 1331.

20 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
21 AMENDED COMPLAINT
22 PAGE 3

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1 14. Ragan admits that this Court has supplemental jurisdiction under 28 U.S.C.
2 § 1367.

3 15. Ragan admits that the Court has personal jurisdiction over Ragan but
4 otherwise denies the allegations in paragraph 15.

5 16. Ragan admits that the Court has personal jurisdiction over CXO, that Ragan
6 is an employee of CXO, and that CXO had the right to control Ragan but otherwise
7 denies the allegations in paragraph 16.

8 17. Ragan is without sufficient information at this time to admit or deny the
9 allegations in paragraphs 17 of the Complaint and therefore denies the allegations
10 pursuant to Fed. R. Civ. P. 8(b)(5).

11 18. Ragan admits that venue is proper but denies any acts of illegal computer
12 access.

13 19-24. Ragan is without sufficient information at this time to admit or deny
14 the allegations in paragraphs 19-24 of the Complaint and therefore denies the allegations
15 pursuant to Fed. R. Civ. P. 8(b)(5).

16 25. Admitted.

17 26. Ragan is without sufficient information at this time to admit or deny the
18 allegations in paragraph 26 of the Complaint and therefore denies the allegations pursuant
19 to Fed. R. Civ. P. 8(b)(5).

20 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
21 AMENDED COMPLAINT
22 PAGE 4

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1 27. Ragan admits that he is an employee of CXO but denies the remaining
2 allegations of paragraph 27.

3 28-39. Ragan is without sufficient information at this time to admit or deny
4 the allegations in paragraphs 28-39 of the Complaint and therefore denies the allegations
5 pursuant to Fed. R. Civ. P. 8(b)(5).

6 40. Admitted.

7 41. Admitted except that the actual quote was: "This is the story of how River
8 City Media (RCM), Alvin Slocombe, and Matt Ferris, accidentally exposed their entire
9 operation to the public after failing to properly configure their Rsync backups."

10 42. Ragan admits that the article included the quote "This is the story of how
11 River City Media (RCM), Alvin Slocombe, and Matt Ferris, accidentally exposed their
12 entire operation to the public after failing to properly configure their Rsync backups."
13 Ragan otherwise denies the allegations in paragraph 42.

14 43. Ragan is without sufficient information at this time to admit or deny the
15 allegation in paragraph 43 of the Complaint regarding what "River City's records show"
16 and therefore denies the allegation pursuant to Fed. R. Civ. P. 8(b)(5). The remaining
17 allegations in paragraph 43 are denied.

18 44-50. Ragan is without sufficient information at this time to admit or deny
19 the allegations in paragraphs 44-50 of the Complaint and therefore denies the allegations

1 pursuant to Fed. R. Civ. P. 8(b)(5).

2 51. Ragan denies ever publicly announcing an unlawful computer hacking by
3 Ragan. Ragan is without sufficient information at this time to admit or deny the
4 remaining allegations in paragraph 51 of the Complaint and therefore denies the
5 allegations pursuant to Fed. R. Civ. P. 8(b)(5).

6 52. Ragan is without sufficient information at this time to admit or deny the
7 allegations in paragraph 52 of the Complaint and therefore denies the allegations pursuant
8 to Fed. R. Civ. P. 8(b)(5).

9 53. Ragan denies that he “purposefully attack[ed] and compromise[ed] River
10 City’s Zabbix server” and “effectively hamstrung River City’s ability to detect and stop
11 their cyberattack.” Ragan is without sufficient information at this time to admit or deny
12 the remaining allegations in paragraph 53 of the Complaint and therefore denies the
13 allegations pursuant to Fed. R. Civ. P. 8(b)(5).

14 54. Denied as to Ragan. Ragan is without sufficient information at this time to
15 admit or deny the allegations in paragraph 54 of the Complaint as they relate to other
16 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

17 55-58. Ragan is without sufficient information at this time to admit or deny
18 the allegations in paragraphs 55-58 of the Complaint and therefore denies the allegations
19 pursuant to Fed. R. Civ. P. 8(b)(5).

20
21 DEFENDANT STEVE RAGAN’S ANSWER TO FIRST
22 AMENDED COMPLAINT
23 PAGE 6

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1 59. Denied as to Ragan. Ragan is without sufficient information at this time to
2 admit or deny the allegations in paragraph 59 of the Complaint as they relate to other
3 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
4

5 60. Denied as to Ragan. Ragan is without sufficient information at this time to
6 admit or deny the allegations in paragraph 60 of the Complaint as they relate to other
7 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
8

9 61. Ragan denies that he misappropriated or converted any funds and admits that
10 he would have had no authority to do so.
11

12 62. Denied.
13

14 63. Denied as to Ragan. Ragan is without sufficient information at this time to
15 admit or deny the allegations in paragraph 63 of the Complaint as they relate to other
16 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
17

18 64. Ragan is without sufficient information at this time to admit or deny the
19 allegations in paragraph 64 of the Complaint and therefore denies the allegations pursuant
20 to Fed. R. Civ. P. 8(b)(5).
21

22 65-66. Denied.
23

24 67. Ragan admits that he authored the article titled "Spammers expose their
entire operation through bad backups" located at
<https://www.csionline.com/article/3176433/security/spammers-expose-their-entire-operation-through-bad-backups>

DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 7

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1 operation-through-bad-backups.html dated March 6, 2017 ("Ragan Article"). Ragan
 2 admits that there is an article titled "Spammergate: The Fall of an Empire" located at
 3 <https://mackeeper.com/blog/post/339-spammergate-the-fall-of-an-empire> dated June 3,
 4 2017 ("Vickery Article"). Ragan denies the remaining allegations in paragraph 67.
 5

6 68. Ragan admits that the Vickery Article states that "RCM masquerades as a
 7 legitimate marketing firm while, per their own documentation, being responsible for up to
 8 a billion daily email sends." Ragan admits that the Vickery Article includes the words
 9 "illegal hacking". Ragan denies the remaining allegations of paragraph 68.
 10

11 69. Ragan is without sufficient information at this time to admit or deny the
 12 allegations in paragraph 69 of the Complaint and therefore denies the allegations pursuant
 13 to Fed. R. Civ. P. 8(b)(5). Ragan denies wrongfully causing any harm to RCM.
 14

15 70. Ragan denies making any defamatory statements. Ragan is without
 16 sufficient information at this time to admit or deny the remaining allegations in paragraph
 17 70 of the Complaint and therefore denies the allegations pursuant to Fed. R. Civ. P.
 18 8(b)(5).
 19

20 71. Ragan is without sufficient information at this time to admit or deny the
 21 allegations in paragraph 71 of the Complaint and therefore denies the allegations pursuant
 22 to Fed. R. Civ. P. 8(b)(5).
 23

24 72. Ragan admits publishing the Ragan Article. Ragan denies the remaining

DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
 AMENDED COMPLAINT
 PAGE 8

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1 allegations of paragraph 72.

2 73. Ragan admits that the Vickery Article includes the quotes “RCM
 3 masquerades as a legitimate marketing firm while, per their own documentation, being
 4 responsible for up to a billion daily email sends” and “How can a group of about a dozen
 5 people be responsible for one billion emails sent in one day? The answer is a lot of
 6 automation, years of research, and fair bit of illegal hacking techniques”. Ragan denies
 7 the remaining allegations of paragraph 73.

8 74. Ragan admits that the Vickery Article includes the statement that “Purposely
 9 throttling your own machinery to amass open connections on someone else’s server is a
 10 type of Slowloris attack [[https://en.wikipedia.org/wiki/Slowloris_\(computer_security\)](https://en.wikipedia.org/wiki/Slowloris_(computer_security))].”
 11 Ragan denies the remaining allegations of paragraph 74.

12 75. Ragan admits that the Ragan Article includes the following statements:

- 13 • (quoting Vickery): “Once we concluded that this was indeed related to a
 14 criminal operation, it was decided that we should approach law enforcement and
 15 the affected companies (like Microsoft and Yahoo) before making any attempts
 16 at contacting the spammers directly.
- 17 • “In the RCM chat logs, McKeown is respected for his scripting work. His
 18 efforts enabled RCM to exploit a number of providers in order to inbox offers.”
- 19 • “Nobody would knowingly give their email address to spammers, so they have

1 to be tricked into it. Usually, there is some kind of offer for a 'free gift' in
 2 exchange for giving up an email address and personal information. The fine
 3 print of these offers allows the company to share their address with their
 4 'partners' which ends up also being their partner's partners, and their partner's
 5 partner's partners, until every spammer on the planet has their address,'
 6 explained Spamhaus' Mike Anderson. He goes on to explain such address lists
 7 are the lifeblood of the industry, and they're constantly being analyzed through
 8 tracking systems - examining which addresses are viewing spam ads, which
 9 ones are clicking on them, and which ones are buying. 'Meanwhile, the original
 10 contract for handing over the address is never fulfilled, since it turns out to be
 11 impossible to redeem the 'free gift' or only with extreme difficulty. And of
 12 course these addresses never go through a confirmation process, to ensure it's
 13 the real owner of the address doing the signup.'"

17 Ragan denies the remaining allegations of paragraph 75.

18 76. Ragan admits that the Ragan Article included a link to the Vickery Article
 19 but denies the remaining allegations of paragraph 76.

21 77. Denied that the statements above are false. Ragan is without sufficient
 22 information at this time to admit or deny the remaining allegations in paragraph 77 of the
 23 Complaint and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

24 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
 AMENDED COMPLAINT
 PAGE 10

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1 78. Denied.

2 79-80. Admitted.

3 81-83. Ragan is without sufficient information at this time to admit or deny
4 the allegations in paragraphs 81-83 of the Complaint and therefore denies the allegations
5 pursuant to Fed. R. Civ. P. 8(b)(5).

6 84. Ragan hereby incorporates by reference the foregoing paragraphs as though
7 fully set forth herein.

8 85. Ragan admits Vickery is not an employee of RCM but is without sufficient
9 information at this time to admit or deny the remaining allegations in paragraph 85 of the
10 Complaint and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

11 86-90. Ragan is without sufficient information at this time to admit or deny
12 the allegations in paragraphs 86-90 of the Complaint and therefore denies the allegations
13 pursuant to Fed. R. Civ. P. 8(b)(5).

14 91. Denied as to Ragan. Ragan is without sufficient information at this time to
15 admit or deny the allegations in paragraph 91 of the Complaint as they relate to the other
16 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

17 92. Denied as to any conduct by Ragan. Ragan is without sufficient
18 information at this time to admit or deny the allegations in paragraph 92 of the Complaint
19 as they relate to Plaintiff RCM or the other Defendants and therefore denies the

20
21 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
22 AMENDED COMPLAINT
23 PAGE 11

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(509) 838-6131

1 allegations pursuant to Fed. R. Civ. P. 8(b)(5).

2 93. Ragan hereby incorporates by reference the foregoing paragraphs as though
3 fully set forth herein.

4 94. Ragan admits Vickery is not an employee of RCM but is without sufficient
5 information at this time to admit or deny the remaining allegations in paragraph 94 of the
6 Complaint and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

7 95-98. Ragan is without sufficient information at this time to admit or deny
8 the allegations in paragraphs 95-98 of the Complaint and therefore denies the allegations
9 pursuant to Fed. R. Civ. P. 8(b)(5).

10 99. Denied as to Ragan. Ragan is without sufficient information at this time to
11 admit or deny the allegations in paragraph 99 of the Complaint as they relate to the other
12 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

13 100. Denied as to any conduct by Ragan. Ragan is without sufficient information
14 at this time to admit or deny the allegations in paragraph 100 of the Complaint as they
15 relate to Plaintiff RCM or the other Defendants and therefore denies the allegations
16 pursuant to Fed. R. Civ. P. 8(b)(5).

17 101. Ragan admits that RCM seeks punitive and exemplary damages but denies
18 that RCM is entitled to recover them and denies the remaining allegations of paragraph
19
20 101.

21
22
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24 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 12

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(509) 838-6131

1 102. Ragan admits that RCM seeks attorney's fees but denies that RCM is
2 entitled to recover them.

3 103. Ragan hereby incorporates by reference the foregoing paragraphs as though
4 fully set forth herein.

5 104. Ragan admits Vickery is not an employee of RCM but is without sufficient
6 information at this time to admit or deny the remaining allegations in paragraph 104 of
7 the Complaint and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

8 105-107. Ragan is without sufficient information at this time to admit or deny
9 the allegations in paragraphs 105-107 of the Complaint and therefore denies the
10 allegations pursuant to Fed. R. Civ. P. 8(b)(5).

11 108. Denied as to Ragan. Ragan is without sufficient information at this time to
12 admit or deny the allegations in paragraph 108 of the Complaint as they relate to the other
13 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

14 109. Denied as to Ragan. Ragan is without sufficient information at this time to
15 admit or deny the allegations in paragraph 109 of the Complaint as they relate to the other
16 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

17 110. Denied as to Ragan. Ragan is without sufficient information at this time to
18 admit or deny the allegations in paragraph 110 of the Complaint as they relate to the other
19 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

1 111. Denied as to any conduct by Ragan. Ragan is without sufficient information
2 at this time to admit or deny the allegations in paragraph 111 of the Complaint as they
3 relate to the other Defendants and therefore denies the allegations pursuant to Fed. R.
4 Civ. P. 8(b)(5).
5

6 112. Ragan hereby incorporates by reference the foregoing paragraphs as though
7 fully set forth herein.

8 113. Ragan admits Vickery is not an employee of RCM but is without sufficient
9 information at this time to admit or deny the remaining allegations in paragraph 113 of
10 the Complaint and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

12 114-116. Ragan is without sufficient information at this time to admit or deny
13 the allegations in paragraphs 114-116 of the Complaint and therefore denies the
14 allegations pursuant to Fed. R. Civ. P. 8(b)(5).

16 117. Denied as to Ragan. Ragan is without sufficient information at this time to
17 admit or deny the allegations in paragraph 117 of the Complaint as they relate to the other
18 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

20 118. Denied as to any conduct by Ragan. Ragan is without sufficient information
21 at this time to admit or deny the allegations in paragraph 118 of the Complaint as they
22 relate to Plaintiff RCM or the other Defendants and therefore denies the allegations
23 pursuant to Fed. R. Civ. P. 8(b)(5).

24
DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 14

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1 119. Ragan admits that RCM seeks punitive and exemplary damages but denies
2 that RCM is entitled to recover them and denies the remaining allegations of paragraph
3 119.
4

5 120. Ragan hereby incorporates by reference the foregoing paragraphs as though
6 fully set forth herein.

7 121-122. Ragan is without sufficient information at this time to admit or deny
8 the allegations in paragraphs 121-122 of the Complaint and therefore denies the
9 allegations pursuant to Fed. R. Civ. P. 8(b)(5).
10

11 123. Denied as to Ragan. Ragan is without sufficient information at this time to
12 admit or deny the allegations in paragraph 123 of the Complaint as they relate to the other
13 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
14

15 124. Denied as to Ragan. Ragan is without sufficient information at this time to
16 admit or deny the allegations in paragraph 124 of the Complaint as they relate to the other
17 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
18

19 125. Denied.

20 126. Denied as to Ragan. Ragan is without sufficient information at this time to
21 admit or deny the allegations in paragraph 126 of the Complaint as they relate to
22 Plaintiffs or the other Defendants and therefore denies the allegations pursuant to Fed. R.
23 Civ. P. 8(b)(5).
24

DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 15

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(509) 838-6131

1 127. Ragan hereby incorporates by reference the foregoing paragraphs as though
2 fully set forth herein.

3 128-129. Ragan is without sufficient information at this time to admit or deny
4 the allegations in paragraphs 128-129 of the Complaint and therefore denies the
5 allegations pursuant to Fed. R. Civ. P. 8(b)(5).

6 130. Denied as to Ragan. Ragan is without sufficient information at this time to
7 admit or deny the allegations in paragraph 130 of the Complaint as they relate to the other
8 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

9 131. Denied as to Ragan. Ragan is without sufficient information at this time to
10 admit or deny the allegations in paragraph 131 of the Complaint as they relate to the other
11 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

12 132. Denied as to Ragan. Ragan is without sufficient information at this time to
13 admit or deny the allegations in paragraph 132 of the Complaint as they relate to
14 Plaintiffs or the other Defendants and therefore denies the allegations pursuant to Fed. R.
15 Civ. P. 8(b)(5).

16 133. Ragan hereby incorporates by reference the foregoing paragraphs as though
17 fully set forth herein.

18 134. Ragan is without sufficient information at this time to admit or deny the
19 allegations in paragraph 134 of the Complaint and therefore denies the allegations

1 pursuant to Fed. R. Civ. P. 8(b)(5).

2 135. Denied as to Ragan. Ragan is without sufficient information at this time to
3 admit or deny the allegations in paragraph 135 of the Complaint as they relate to the other
4 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

5 136. Denied as to Ragan. Ragan is without sufficient information at this time to
6 admit or deny the allegations in paragraph 136 of the Complaint as they relate to the other
7 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

8 137. Denied as to Ragan. Ragan is without sufficient information at this time to
9 admit or deny the allegations in paragraph 137 of the Complaint as they relate to
10 Plaintiffs or the other Defendants and therefore denies the allegations pursuant to Fed. R.
11 Civ. P. 8(b)(5).

12 138. Ragan hereby incorporates by reference the foregoing paragraphs as though
13 fully set forth herein.

14 139-140. Ragan is without sufficient information at this time to admit or deny
15 the allegations in paragraphs 139-140 of the Complaint and therefore denies the
16 allegations pursuant to Fed. R. Civ. P. 8(b)(5).

17 141. Denied as to Ragan. Ragan is without sufficient information at this time to
18 admit or deny the allegations in paragraph 141 of the Complaint as they relate to the other
19 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

1 142. Denied as to Ragan. Ragan is without sufficient information at this time to
2 admit or deny the allegations in paragraph 142 of the Complaint as they relate to the other
3 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
4

5 143. Denied as to any conversion by Ragan. Ragan is without sufficient
6 information at this time to admit or deny the allegations in paragraph 143 of the
7 Complaint as they relate to the Plaintiffs or the other Defendants and therefore denies the
8 allegations pursuant to Fed. R. Civ. P. 8(b)(5).
9

10 144. Ragan hereby incorporates by reference the foregoing paragraphs as though
11 fully set forth herein.

12 145. Ragan admits Vickery is not an employee of RCM but is without sufficient
13 information at this time to admit or deny the remaining allegations in paragraph 145 of
14 the Complaint and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
15

16 146-148. Ragan is without sufficient information at this time to admit or deny
17 the allegations in paragraphs 146-148 of the Complaint and therefore denies the
18 allegations pursuant to Fed. R. Civ. P. 8(b)(5).
19

20 149. Denied as to Ragan. Ragan is without sufficient information at this time to
21 admit or deny the allegations in paragraph 149 of the Complaint as they relate to the other
22 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
23

24 150. Denied as to Ragan. Ragan is without sufficient information at this time to
DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 18

1 admit or deny the allegations in paragraph 150 of the Complaint as they relate to the other
2 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).
3

4 151. Denied as to Ragan. Ragan is without sufficient information at this time to
5 admit or deny the allegations in paragraph 151 of the Complaint as they relate to the other
6 Defendants and therefore denies the allegations pursuant to Fed. R. Civ. P. 8(b)(5).

7 152-153. Ragan is without sufficient information at this time to admit or deny
8 the allegations in paragraphs 152-153 of the Complaint and therefore denies the
9 allegations pursuant to Fed. R. Civ. P. 8(b)(5).
10

11 154. Ragan hereby incorporates by reference the foregoing paragraphs as though
12 fully set forth herein.
13

14 155-60. Denied.
15

Jury Demand

16 Ragan demands a jury for all claims and admits that Plaintiffs demand a jury as
17 well.
18

Plaintiffs' Request for Relief

19 Ragan denies that Plaintiffs are entitled to any relief in the section of the
20 Complaint titled "XVI. REQUEST FOR RELIEF".
21

Affirmative Defenses

22 Without assuming the burden of proof where it otherwise rests with Plaintiffs,
23 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
24 AMENDED COMPLAINT
PAGE 19

1 Ragan asserts the following defenses:

2 1. Plaintiffs fail to state a claim upon which relief can be granted.

3 2. Plaintiff RCM is precluded from asserting its state-law claims because it is
4 not registered to do business with the Washington Secretary of State. *See* RCW
5 § 23.95.505.

6 3. Plaintiffs failed to mitigate their damages. On information and belief,
7 Plaintiffs could have used reasonable efforts to mitigate their damages, including without
8 limitation by not engaging in the conduct that is the subject of the Ragan Article and
9 Vickery Article.

10 4. Plaintiffs' claims against Ragan are barred due to the privilege of fair
11 comment on matters of public concern. The statements in the Ragan Article constituted a
12 fair comment on a matter of public concern, and Ragan did not make them maliciously or
13 based on false statements of fact.

14 5. In the event that the defendant bears the burden of proving the truth of the
15 statements at issue, Plaintiffs' claims against Ragan are barred because the statements in
16 the Ragan Article were true and, at a minimum, substantially true and the gist, or "sting,"
17 of the Ragan Article was true.

18 6. In the unlikely event of liability on the part of Ragan, punitive and
19 exemplary damages are unavailable to Plaintiffs under Washington law.

20 DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 20

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Spokane, Washington 99201
(509) 838-6131

7. The statements in the Ragan Article are protected under the First Amendment to the U.S. Constitution and Article I Section 5 of the Washington Constitution.

Prayer

For the foregoing reasons, Defendant Steve Ragan respectfully requests that the Court dismiss Plaintiffs' suit against Ragan, and grant Ragan such other relief to which he may be justly entitled.

Respectfully submitted this 20th day of July, 2018.

s/Kevin J. Curtis, WSBA No. 12085
WINSTON & CASHATT, LAWYERS
601 W. Riverside, Ste. 1900
Spokane, WA 99201
(509) 838-6131
Facsimile: (509) 838-1416
E-mail Address: kjc@winstoncashatt.com

Charles L. Babcock IV (*admitted pro hac vice*)
cbabcock@jw.com
Texas Bar No. 01479500
William J. Stowe (*admitted pro hac vice*)
wstowe@jw.com
Texas Bar No. 24075124
JACKSON WALKER L.L.P.
1401 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 752-4360 (telephone)
(713) 308-4116 (facsimile)

1 Attorneys for Defendants CXO Media, Inc. and
2 Steve Ragan
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DEFENDANT STEVE RAGAN'S ANSWER TO FIRST
AMENDED COMPLAINT
PAGE 22

Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
(509) 838-6131

1 I hereby certify that on July 20, 2018, I electronically filed the foregoing with the
2 Clerk of the Court using the CM/ECF System which will send notification of such filing
3 to the following:
4

5 Jason E. Bernstein - jake@newmanlaw.com
6 Leeor Neta (*admitted pro hac vice*) - leeor@newmanlaw.com

7 Attorneys for Plaintiffs
8

9 Christopher B. Durbin - cdurbin@cooley.com
10 Matthew D. Brown (*admitted pro hac vice*) - brownmd@cooley.com
Amy M. Smith (*admitted pro hac vice*) - amsmith@cooley.com

11 Attorneys for Defendant Kromtech Alliance Corporation
12

13 Edward C. Chung - Echung@cmmlawfirm.com
Attorney for Defendant Chris Vickery

14 s/Kevin J. Curtis, WSBA No. 12085
15 WINSTON & CASHATT, LAWYERS
16 Attorneys for Defendants International Data
17 Group, Inc., CXO Media, Inc. and Steve Ragan
601 W. Riverside, Ste. 1900
18 Spokane, WA 99201
(509) 838-6131
19 Facsimile: (509) 838-1416
E-mail Address: kjc@winstoncashatt.com